

186.1

REPORT ON REVIEW OF  
WINE ADVISORY BOARD AND WINE INSTITUTE  
AUGUST 1973

ASSEMBLYMEN

CHAIRMAN  
VINCENT THOMAS  
SIXTY-EIGHTH DISTRICT  
WILLIE L. BROWN, JR.  
EIGHTEENTH DISTRICT  
MIKE CULLEN  
FORTY-FOURTH DISTRICT  
RAY E. JOHNSON  
FOURTH DISTRICT

Joint Legislative Audit Committee

GOVERNMENT CODE: SECTIONS 10500-10504

California Legislature

VINCENT THOMAS  
CHAIRMAN

ROOM 4126, STATE CAPITOL  
SACRAMENTO, CALIFORNIA 95814  
(916) 445-7906

MERRILL E. TOMPKINS, C.P.A., COORDINATOR  
(916) 445-1890

EVE OSTOJA, OFFICE MANAGER  
(916) 445-7908

SENATORS

VICE CHAIRMAN  
WILLIAM E. COOMBS  
TWENTIETH DISTRICT  
RANDOLPH COLLIER  
FIRST DISTRICT  
GEORGE DEUKMEJIAN  
THIRTY-SEVENTH DISTRICT  
GEORGE N. ZENOVICH  
SIXTEENTH DISTRICT

August 23, 1973

Honorable Alan Short, Chairman  
Select Committee on Alcoholic Beverages  
Room 4076, State Capitol  
Sacramento, California 95814

Dear Alan:

Transmitted herewith is a report on the review of the contract and contract expenditures between the Wine Advisory Board and the Wine Institute.

The Wine Advisory Board consists of 25 wine producers appointed by the Director of the Department of Food and Agriculture. Twenty-one of these producers are also members of the Wine Institute.

A contract between the board and institute has been in effect for more than 40 years. Contract expenditures for the 1971-72 fiscal year of \$1,952,000 accounted for approximately 75 percent of the total board budget of \$2,603,000. Contract expenditures have not, in recent years, been audited by the Department of Food and Agriculture or Department of Finance.

A Legislative Counsels' opinion regarding the legality of the contract states that the agreement between the Wine Advisory Board and the Wine Institute is in accordance with the Wine Marketing Order and the delegation of authority is in accordance with the California Marketing Act of 1937.

Sincerely,



VINCENT THOMAS, Chairman  
Joint Legislative Audit Committee

## TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
FINDINGS	3
MARKETING ORDER FOR WINE	5
WINE ADVISORY BOARD	7
WINE INSTITUTE	9
 EXHIBITS	
A - Wine Institute - Wine Advisory Board Contract Expenditures	10
B - Wine Advisory Board Expenditures	11
C - Wine Advisory Board Members and Alternate Members	12
D - Legislative Counsel Opinion #15767 - California Marketing Act of 1937 - and Attachments	13
- Marketing Order for Wine, as Amended Effective October 1, 1972	20
- Agreement between Wine Advisory Board and Wine Institute	39

## INTRODUCTION

In response to a legislative request, we have reviewed the contract and contract expenditures between the Wine Advisory Board (WAB) and the Wine Institute (WI).

Authorization for the review can be found in the following sources:

1. Marketing Order for Wine, as amended, Article III,  
Section E, which reads as follows:

"Subject to the approval of the Director, the Board may enter into contracts and agreements..."

"Any such agreement or contract entered into by and between the Board and any persons or agencies for the performance of the functions referred to therein shall provide that the Director and the Board shall have the right to review or audit the expenditures of such person or agency made pursuant to such contract or agreement." And,

2. Agreement by and between the Wine Advisory Board and the Wine Institute, Section (e) Administration, which reads as follows:

"Contractor agrees to permit the Board, the Director, or their properly designated agent to review its actual total expenditure records and audit monthly bills rendered hereunder."

As a part of the review, Legislative Counsel was asked for an opinion on the following questions:

- "1. Is the delegation of authority to the Wine Advisory Board under the Wine Marketing Order in accordance with the provisions of the California Marketing Act of 1937 (Pt. 2 (commencing with Sec. 1937), Div. 21, F. & A. C.)?"
- "2. Is the agreement between the Wine Advisory Board and the Wine Institute in accordance with the Wine Marketing Order?"

The opinion in both instances is that they are in accordance with the provisions of the Wine Marketing Order. See Exhibit D for complete opinion.

## FINDINGS

WINE INSTITUTE CONTRACT EXPENDITURES HAVE NOT BEEN  
AUDITED IN RECENT YEARS BY THE DEPARTMENT OF FOOD AND  
AGRICULTURE.

A contract between the Wine Advisory Board and the Wine Institute has been in existence for more than 40 years. The current contract provides for the performance of the following functions:

1. Research
2. Surveys
3. Public Relations
4. Sanitation
5. Administration.

See Exhibit C for a copy of the contract.

The following shows contract expenditures compared with total Wine Advisory Board expenditures for fiscal year 1971-72 and the first nine months of fiscal year 1972-73. The 1972-73 year-end figures are not yet available. See Exhibit A for schedule of contract expenditures.

<u>Period</u>	<u>Total WAB Expenditures</u>	<u>Contract Expenditures</u>	<u>Percentage</u>
1971-72	\$2,603,214	\$1,952,150	74.98%
First nine months 1972-73	2,196,622	1,708,560	77.78

Department and board personnel state that they cannot remember when the department last audited contract expenditures. The State Department of Finance audited the Wine Advisory Board as of June 30, 1972, but did not audit contract expenditures which account for approximately 75 percent of the board's budget.

THE WINE INSTITUTE DOES NOT SEGREGATE CONTRACT EXPENDITURES  
FROM INSTITUTE DUES EXPENDITURES.

The institute has two sources of income: (1) Wine Advisory Board contract, and (2) institute members' dues. Expenditures are not designated as to sources of funds which precludes a separate audit of the contract expenditures.

The expenditures of contract funds should be segregated to facilitate auditing by the Department of Agriculture or other state agency.

WINE ADVISORY BOARD MEMBERS ARE ALSO WINE INSTITUTE MEMBERS.

Twenty-one of the Wine Advisory Board members are also members of the Wine Institute. The board has authority under Section 58845 of the Agriculture Code to employ necessary personnel. As of July 1, 1973, there were seven employees on the board's staff, including the general manager and the controller.

## MARKETING ORDER FOR WINE

Wine is an agricultural commodity (Section 58605, Agricultural Code). The Director of Agriculture may issue Marketing Orders on any agricultural commodity (Section 58741, Agricultural Code).

The original Marketing Order was assented to by industry members and issued by the California State Department of Agriculture in 1938. The current Marketing Order, as amended became effective October 1, 1972 and expires June 30, 1975, unless terminated sooner by the Director of the Department of Food and Agriculture.

The current order was assented to by 49.06 percent of the processors who produce 91.09 percent of the total volume of production.

Assessment of producers is provided for in Section 58921 of the Agricultural Code which states as follows:

"Except as otherwise provided in Section 58926, each Marketing Order which is issued pursuant to this chapter shall provide for the levying and collection of assessments in sufficient amounts to defray the necessary expenses which are incurred by the Director in the formulation, issuance, administration, and enforcement of the Marketing Order. If the Marketing Order authorizes the carrying out of advertising and sales promotion plans, it shall also provide for levying and collection of assessments in sufficient amounts to defray the expenses of such activities..."



Article IV, Section A of the order sets the rate of assessment levied on the producers as follows:

<u>Type of Wine</u>	<u>Assessment Per Gallon Produced for Market</u>
Grape Dessert	One and one-half cents (\$0.015)
Grape Table	One cent (\$0.01)
Fruit or Agricultural	One-half of one cent (\$0.005)

The Wine Advisory Board collected \$2,357,000 in fiscal year 1971-72 and estimates collections of \$2,098,000 for fiscal year 1972-73 based on the above rates.

## WINE ADVISORY BOARD

Agricultural Code (Section 58841) provides for the establishment of an Advisory Board "...to assist the Director in the administration of any Marketing Order." The Wine Advisory Board is composed of 25 producers who are appointed by the director to serve from October 1, 1972 to June 30, 1975 or until their successors have been appointed and have qualified.

Powers and duties of the Wine Advisory Board are set forth in the Agricultural Code Sections 58845 and 58846 as follows:

### Section 58845. Powers of the Board

"The Director may authorize an Advisory Board to do all of the following:

- (a) Enter into contracts or agreements.
- (b) Employ necessary personnel, including attorneys engaged in the private practice of the law, and fix their compensation and terms of employment.
- (c) Incur such expenses, to be paid by the Director from moneys which are collected as provided in this article, as the Director may deem necessary and proper to enable the Advisory Board properly to perform its duties as authorized by this chapter."

### Section 58846. Duties of the Board

"The duties of an Advisory Board are administrative only and any such board may do only the following:

- (a) Subject to the approval of the Director, administer the Marketing Order.
- (b) Recommend to the Director administrative rules and regulations which relate to the Marketing Order.

- (c) Receive and report to the Director complaints of violations of the Marketing Order.
- (d) Recommend to the Director amendments to the Marketing Order.
- (e) Assist the Director in the assessment of members of the industry and in the collection of funds to cover expenses incurred by the Director in the administration of the Marketing Order.
- (f) Assist the Director in the collection of such necessary information and data as the Director may deem necessary to the proper administration of this chapter."

See Exhibit E for the current Wine Advisory Board members and alternate members.

The Wine Advisory Board income and expenditures for the fiscal year 1971-72 and the first nine months of 1972-73 are as follows:

	For Year Ended <u>June 30, 1972</u>	Nine Months Ended <u>March 31, 1973</u>
Income:		
Balance forward	\$1,966,881	\$1,825,086
Assessments - Prior seasons	1,926	1,376
Assessments - Current season	2,356,938	1,481,119
Interest Income	<u>102,555</u>	Not Available
Total Income	\$4,428,300	\$3,307,581
Total Expenditures (See Exhibit B)	<u>\$2,603,214</u>	<u>\$2,196,621</u>
Balance Forward	<u>\$1,825,086</u>	<u>\$1,110,959</u>

The first nine months of fiscal year 1972-73 is reported as year-end totals are not yet available.

## WINE INSTITUTE

The Wine Institute was founded in 1934 following the repeal of prohibition. It is a non-profit trade association of wine producers. Some of the institute's initial projects were:

- To promote high wine quality standards
- To broaden markets
- To educate the consumer
- To cooperate with the trade in developing sound merchandising methods
- To collect and collate grape and wine industry statistical information
- To conduct market surveys
- To work for uniform and reasonable conditions of distributions of California wines
- To work for the establishment of reasonable tax rates on wine
- To sponsor technical research, and
- To cooperate with all federal and state authorities administering wine laws and regulations.

The Wine Institute represents the great majority of all California wine growers and a large number of associate members who benefit from the institute's services.



Walter J. Quinn  
Acting Deputy Auditor General

August 22, 1973

Staff: John Finnstrom  
William Batt  
Wesley Voss

Wine Institute  
Wine Advisory Board Contract Expenditures  
For the Year Ended June 30, 1972 and the Nine Months  
Ended March 31, 1973

	Year Ended June 30, <u>1972</u>	Nine Months Ended <u>March 31, 1973</u>
Salaries	\$ 601,065.46	\$ 510,618.64
Traveling Expenses	137,081.62	97,280.60
Contractual Services	856,622.43	831,801.36
Wine	9,385.90	8,422.52
Communications	74,182.43	55,366.41
Use of Facilities	56,826.02	47,239.88
Supplies	68,506.24	57,963.63
Payroll Taxes	23,625.87	22,193.48
Personal Property Taxes	1,220.59	1,566.68
Miscellaneous	10,105.07	10,334.79
Health Insurance	21,739.35	23,373.24
Retirement	74,026.52	29,930.34
Deferred Compensation - Serlis	<u>17,762.41</u>	<u>12,468.69</u>
 Total	 <u>\$1,952,149.91</u>	 <u>\$1,708,560.26</u>

Wine Advisory Board  
Expenditures  
For the Year Ended June 30, 1972 and the Nine Months Ended  
March 31, 1973

	<u>Year Ended June 30, 1972</u>	<u>Nine Months Ended March 31, 1973</u>
Salaries	\$ 155,545.59	\$ 117,699.03
Operating Expenses:		
Clerical and office	155,876.96 <sup>(1)</sup>	39,061.87 <sup>(1)</sup>
Freight and cartage	9,821.91	14,005.93
Postage	13,519.00	26,672.67
Travel	6,972.25	4,990.41
Mileage	8,000.06	2,182.93
Research and study	203,779.64	180,621.79
Market survey (Wine Institute contract)	1,952,149.91	1,708,560.26
Advertising	62,922.53	57,334.96
Production and distribution of wine films	8,475.81	3,980.14
Wine allied industry convention	1,021.52	1,128.85
Prior year charge	(17.96)	-0-
Equipment	1,823.96	1,682.33
Department administrative expense	7,520.00	5,300.00
Bureau of Marketing	9,412.00	9,386.50
Pro rata Attorney General	<u>-0-</u>	<u>25.94</u>
Total	\$2,594,823.18	\$2,172,633.61
Add: Travel advances	1,600.00	1,600.00
Accruals	<u>6,791.00</u>	<u>22,388.00</u>
Total Expenditures	<u>\$2,603,214.18</u>	<u>\$2,196,621.61</u>

(1) Includes purchases of wine-related items for resale which has been discontinued as of June 30, 1973.

	<u>MEMBER</u>	<u>ALTERNATE</u>
1.	KERBY T. ANDERSON	J. W. FLEMING
2.	EDMUND ACCOMAZZO	ARTHUR ACCOMAZZO
3.	FRED FRANZIA	JOHN FRANZIA, JR.
4.	PHILO BIANE	MICHAEL BIANE
5.	JOHN B. CELLA, II	RICHARD OSTER
6.	JOSEPH S. CONCANNON, JR.	DAVID FICKLIN
7.	WILLIAM DIEPPE	FRED WEIBEL, JR.
8.	JOSEPH J. FRANZIA	ALFRED PIPONE
9.	DAVID GALLO	HOWARD WILLIAMS
10.	ROBERT GALLO	JAMES COLEMAN
11.	ERNEST HAAS	DINO BARENCO
12.	VEITH HERRE	SEYMOUR GREENBERG
13.	ROBERT IVIE	HUBERT METTLER
14.	L. P. MARTINI	JOSEPH E. HEITZ
15.	OTTO E. MEYER	LEO BERTI
16.	EDMUND A. MIRASSOU	M. J. FILICE
17.	ROBERT MONDAVI	H. PETER JURGENS
18.	KEITH NYLANDER	JAMES S. LAWRENCE
19.	EDWARD V. PRATI	ELMO MARTINI
20.	JAKE RHEINGANS	M. S. NURY
21.	JAMES L. RIDDELL	M. PERELLI-MINETTI
22.	ROBERT SETRAKIAN	LEONARD LE BLANC
23.	B. C. SOLARI	R. M. DOTY
24.	BROTHER TIMOTHY	HERMAN ARCHINAL
25.	KARL L. WENTE	ADOLF HECK

BERNARD CZESLA  
CHIEF DEPUTY

J. GOULD  
OWEN K. KUNS  
RAY H. WHITAKER

KENT L. DeCHAMBEAU  
ERNEST H. KUNZI  
STANLEY M. LOURIMORE  
SHERWIN C. MACKENZIE, JR.  
ANN M. MACKAY  
EDWARD F. NOWAK  
EDWARD K. PURCELL  
RUSSELL L. SPARLING  
PRINCIPAL DEPUTIES

3021 STATE CAPITOL  
SACRAMENTO 95814

110 STATE BUILDING  
LOS ANGELES 90012

# Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California  
August 20, 1973

GERALD ROSS ADAMS  
DAVID D. ALVES  
MARTIN L. ANDERSON  
CHARLES C. ASBILL  
JAMES L. ASHFORD  
JOHN CORZINE  
BEN E. DALE  
JOHN W. DAVIES  
CLINTON J. DEWITT  
ROBERT CULLEN DUFFY  
LAWRENCE H. FEIN  
JOHN FOSSETTE  
HARVEY J. FOSTER  
HENRY CLAY FULLER III  
ALVIN D. GRESS  
ROBERT D. GRONKE  
JAMES W. HEINZER  
THOMAS R. HEUER  
MICHAEL J. KERSTEN  
L. DOUGLAS KINNEY  
VICTOR KOZIELSKI  
DANIEL LOUIS  
JAMES A. MARSALA  
PETER F. MELNICOE  
MIRKO A. MILICEVICH  
EUGENE L. PAINE  
TRACY O. POWELL, II  
MARGUERITE ROTH  
MARY SHAW  
JOHN T. STUDEBAKER  
BRIAN L. WALKUP  
JOSEPH L. WALTUCH  
THOMAS D. WHELAN  
JIMMIE WING  
CHRISTOPHER ZIRKLE  
DEPUTIES

Honorable Vincent Thomas  
Assembly Chamber

California Marketing Act of  
1937 - #15767

Dear Mr. Thomas:

You have submitted copies of a marketing order for wine, effective October 1, 1972,<sup>1</sup> and an agreement of July 1, 1972, between the Wine Advisory Board and the Wine Institute,<sup>2</sup> and have asked the following two questions, which are separately stated and considered below.<sup>3</sup>

## QUESTION NO. 1

Is the delegation of authority to the Wine Advisory Board under the wine marketing order in accordance with the provisions of the California Marketing Act of 1937 (Pt. 2 (commencing with Sec. 1937), Div. 21, F. & A.C.<sup>4</sup>).

- <sup>1</sup> Hereinafter referred to as the "wine marketing order."
- <sup>2</sup> Hereinafter referred to as the "agreement."
- <sup>3</sup> Pursuant to your instructions, we have not considered the constitutionality of the wine marketing order or the agreement.
- <sup>4</sup> All section references, unless otherwise indicated, are to the Food and Agricultural Code.



OPINION NO. 1

The delegation of authority to the Wine Advisory Board under the wine marketing order is in accordance with the California Marketing Act of 1937.

ANALYSIS NO. 1

The California Marketing Act of 1937 provides for the establishment of marketing orders by the Director of Food and Agriculture,<sup>5</sup> to regulate producer marketing, the processing, distributing, or handling in any manner of any commodity of this state (Sec. 58741). The director is charged with the administration and enforcement of any such marketing order (Secs. 58711, 58712). The law requires the establishment of an advisory board for each marketing order to assist the director in the administration of any marketing order (Sec. 58841).

An advisory board, whose members are appointed by, and serve at the pleasure of, the director, has certain powers and duties provided for by Sections 58845 and 58846, which read as follows:

"58845. The director may authorize an advisory board to do all of the following:

"(a) Enter into contracts or agreements.

"(b) Employ necessary personnel, including attorneys engaged in the private practice of the law, and fix their compensation and terms of employment.

"(c) Incur such expenses, to be paid by the director from moneys which are collected as provided in this article, as the director may deem necessary and proper to enable the advisory board properly to perform its duties as authorized by this chapter." (Emphasis added.)

---

<sup>5</sup> Hereinafter referred to as the "director."

"58846. The duties of an advisory board are administrative only and any such board may do only the following:

"(a) Subject to the approval of the director, administer the marketing order.

"(b) Recommend to the director administrative rules and regulations which relate to the marketing order.

"(c) Receive and report to the director complaints of violations of the marketing order.

"(d) Recommend to the director amendments to the marketing order.

"(e) Assist the director in the assessment of members of the industry and in the collection of funds to cover expenses incurred by the director in the administration of the marketing order.

"(f) Assist the director in the collection of such necessary information and data as the director may deem necessary to the proper administration of this chapter." (Emphasis added.)

From the above-quoted provisions, the director may authorize an advisory board to perform various enumerated acts including entering into contracts or agreements (subd. (a), Sec. 58845). The advisory board, whose duties are administrative only, may, among other things, administer the marketing order subject to the approval of the director (subd. (a), Sec. 58846).

The California Marketing Act of 1937 permits advisory boards, upon the approval of the director, to establish committees or subcommittees to carry out assigned duties and functions of the board (Sec. 58848).

Section H of Article III of the wine marketing order, which enumerates various duties and powers of the Wine Advisory Board, provides as follows:

"Section H. The Board shall have the following duties and powers, which may be exercised subject to the approval of the Director:

"1. To administer the provisions of this Marketing Order.

"2. To recommend to the Director administrative rules and regulations relating to this Marketing Order.

"3. To receive and report to the Director complaints of violations of this Marketing Order.

"4. To recommend to the Director amendments to this Marketing Order.

"5. To assist the Director in the assessment of members of the industry and in the collection of funds to cover the expenses incurred in carrying out the provisions of this Marketing Order and the administration thereof.

"6. To assist the Director in the collection of such necessary information and data as may be deemed necessary to the proper administration of this Marketing Order and the Act.

"7. To select a chairman from its members and to select such other officers and adopt such regulations for the conduct of its business as the Board may deem advisable.

"8. To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Director, or his duly authorized representatives, and to provide to the Director copies of the minutes of all meetings duly certified by an authorized officer of the Board.

"9. The Board is authorized to cooperate with and to coordinate its activities with any other legally constituted program for the marketing in any form of any agricultural commodity used in the production or processing of wine." (Emphasis added.)

As can be seen from Section H, the Wine Advisory Board may, among other things, administer the provisions of the wine marketing order only subject to the approval of the director.

The Wine Advisory Board may establish special committees or subcommittees to assist the Wine Advisory Board in carrying out its duties and functions pursuant to the marketing order in question.

Also the Wine Advisory Board may, subject to the approval of the director, employ personnel that are necessary and proper to enable it to perform its duties (see subd. (b), Sec. 58845; Sec. J, Marketing Order).

There is nothing in the marketing order in question which delegates absolute powers and duties of the director to the Wine Advisory Board. On the contrary, as can be seen from the above-quoted provisions of the wine marketing order, the acts of the Wine Advisory Board are subject to the approval of the director as is required by the California Marketing Act of 1937. Thus, the director retains his powers and duties to administrate and enforce the provisions of the marketing order in question.

In conclusion, therefore, it is our opinion that the delegation of authority to the Wine Advisory Board under the wine marketing order in question is in accordance with the California Marketing Act of 1937.

#### QUESTION NO. 2

Is the agreement between the Wine Advisory Board and the Wine Institute in accordance with the wine marketing order?

#### OPINION NO. 2

The agreement between the Wine Advisory Board and the Wine Institute is in accordance with the wine marketing order.

#### ANALYSIS NO. 2

Very generally, the agreement requires the Wine Institute, for designated consideration, to perform statistical, historical, sanitation, technical, and general research relating

to wines; to conduct surveys to ascertain wine marketing conditions and consumption trends and practices; to make surveys and examinations of the federal and state laws and regulations governing the sale, distribution, sales promotions, and advertising of wines; to carry on described public relations programs relating to advertising and sales promotion program and other programs carried on by the Wine Advisory Board concerning the California wine industry and California wines; to provide sanitation survey of wineries for purpose of making recommendations to the wine industry on methods to assure high quality new materials and the processing of high quality wines; and to provide executive direction and supervision for all activities as indicated and required. Such functions shall be performed for, and any information derived from any of the above activities shall be furnished to, the Wine Advisory Board for purposes of carrying out the wine marketing order.

Section E of Article III of the wine marketing order authorizes, with approval of the director, the Wine Advisory Board to enter into contracts and agreements with other persons or agencies in carrying out the functions authorized by such order.

Section B of Article III of the wine marketing order authorizes the Wine Advisory Board, with the approval of the director, to conduct or arrange for any necessary and proper research studies or investigations relating to the distribution or marketing of wine and the production or processing of wine. Such research is authorized by the California Marketing Act of 1937 (see Sec. 58892).

Also, Section B of Article III of the wine marketing order authorizes the Wine Advisory Board, with the approval of the director, to conduct or arrange for any necessary and proper educational programs designed to acquaint producers of agricultural commodities used in wine or processors of wine or other interested persons with quality improvement. Section 58893 authorizes any marketing order to contain the above provisions.


The wine marketing order provides for the establishment of advertising and promotion of wines from this state (Sec. A, Art. III, wine marketing order). The authority for including such provisions in a wine marketing order is derived from the California Marketing Act of 1937 (see Sec. 58889).

From the above brief summaries of the agreement and the wine marketing program, we think that the provisions of the agreement are generally authorized by the wine marketing program and the California Marketing Act of 1937. The court, in applying the well established principle that an administrative agency in exercising expressed provision of law, has the additional implied powers which are deemed necessary to the due and efficient exercise of the powers expressly granted (Ken's Catering Service v. Department of Industrial Relations, 57 Cal. 2d 319, 330) would probably hold the agreement valid as complying with the wine marketing order and the California Marketing Act of 1937.

In conclusion, therefore, we think that the agreement between the Wine Advisory Board and the Wine Institute is in accordance with the wine marketing order.

Very truly yours,

George H. Murphy  
Legislative Counsel

By   
Victor Kozielski  
Deputy Legislative Counsel

VK:dfb

CALIFORNIA DEPARTMENT OF AGRICULTURE

BUREAU OF MARKETING

MARKETING ORDER FOR WINE, AS AMENDED

EFFECTIVE OCTOBER 1, 1972

MARKETING ORDER FOR WINE, AS AMENDED

A R T I C L E    I

DEFINITIONS

Section A. DEFINITION OF TERMS. As used in this Marketing Order, as Amended:

1. "Act" means the California Marketing Act, Chapter 1 of Part 2, Division 21 of the Agricultural Code, or as the same may be hereafter amended.
2. "Director" means the Director of Agriculture of the State of California.
3. "Person" means an individual, partnership, firm, corporation, association, subsidiary, affiliate, or other business unit.
4. "Marketing Area" or "Area" means the State of California.
5. "Agricultural Commodity" or "Commodity" regulated by this Order, as Amended, means wine as hereinafter defined in Subsection 9 of this Section.
6. "Processor" means any person, subsidiary, or affiliate who is engaged on United States Bonded Winery or United States Bonded Wine Cellar premises, for commercial purposes in receiving, grading, fermenting, distilling, preserving, grinding, crushing, or changing the form of grapes or any other agricultural commodities into wine for the purpose of the preparation for market of said wine, as such preparation is defined in Subsection 11 of this Section, or any person, subsidiary, or affiliate who is engaged on United States Bonded Winery or United States Bonded Wine Cellar premises, for commercial purposes in receiving, grading, storing, aging, or treating wine or in the preparation for market of wine, as defined in Subsection 11 of this Section.
7. "Subsidiary" means any person or subsidiary thereof over whom any "processor" has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.
8. "Affiliate" means any person or subsidiary thereof who or which has, either directly or indirectly, actual or legal control of or over any processor, whether by stock ownership or in any other manner.
9. "Wine" means the product obtained by the fermentation of grapes or any other agricultural commodity, or juice therefrom, on United States Bonded Winery or United States Bonded Wine Cellar premises in the



State of California, with or without addition or abstraction; and shall include any product made from grapes or any other agricultural commodity which is defined as a wine and permitted under Chapter 51, Subchapter F, Part III of the Internal Revenue Code of the United States and Regulations issued thereunder, as now in force or as hereafter amended, and in the statutes and regulations issued thereunder of the State of California defining wine produced from grapes or any other agricultural commodity, and shall include grape wine and fruit or agricultural wine as defined below produced on United States Bonded Winery or United States Bonded Wine Cellar premises in the State of California, in each case if containing not less than one-half of one per centum (1/2 of 1%) and not more than twenty-four per centum (24%) of alcohol by volume, but excluding wine or wine products rendered unfit for beverage use pursuant to Chapter 51, Subchapter F, Part II, Section 5362 (d), of the Internal Revenue Code, as now in force or as hereafter amended.

a. "Grape Wine" means, for the purposes of this Marketing Order, wine as defined hereinabove and made from the juice or must of sound, ripe grapes and shall include any wine identified by the standards contained within Class 1, Class 2, Class 3, Class 7, Class 8 (as applied to wine made from grapes), and Class 9 of Subpart C, Part 4, Title 27, Code of Federal Regulations, as revised, and as the same may be permitted by Article 14, Subchapter 2, Chapter 5, Title 17, California Administrative Code; provided, that wine produced by the fermentation of grape juice together with the juice of any fruit other than grapes, or the fermentation of grape juice with any other agricultural commodity, or the addition of unfermented grape juice, either concentrated or unconcentrated, to wine made from fruits other than grapes or to wine made from any other agricultural commodity is not grape wine, but shall be deemed to be fruit or agricultural wine as defined below.

b. "Fruit or Agricultural Wine" means, for the purposes of this Marketing Order, wine as defined hereinabove and produced from the juice of fruit other than grapes or from any other agricultural commodity and shall include any wine identified by the standards contained within Class 4, Class 5, Class 6, and Class 8 (as applied to wine made from citrus, fruits other than grapes, or other agricultural products), of Subpart C, Part 4, Title 27, Code of Federal Regulations, as revised, or as the same may be permitted by Article 14, Subchapter 2, Chapter 5, Title 17, California Administrative Code.

c. "Dessert Wine" means wine as hereinabove defined containing in excess of fourteen percent (14%) of alcohol by volume.

d. "Table Wine" means wine as hereinabove defined containing fourteen percent (14%) or less of alcohol by volume.

10. "Processing," for the purpose of this Marketing Order, as Amended, means:

a. Producing wine, or

b. Crushing or juicing of grapes or any other agricultural commodity used in the production of wine, or

c. Making must or pure, boiled, or condensed must, from grapes or any other agricultural commodity for use in the production of wine, or

d. Fermenting any agricultural commodity, or juice therefrom, into wine, or

e. Fortifying or blending wines, or

f. Blending, filtering, clarifying, cellar treatment, aging, storing, or warehousing of wine, or

g. Receiving wine for further or additional distilling, blending, filtering, clarifying, cellar treatment or repackaging, or

h. Receiving wine for aging, storing, or warehousing, or

i. The "preparation for market" of wine as defined in Subsection 11 of this Section.

11. "Preparation for Market" means the placing of wine in movable containers, including bottles, kegs, barrels, casks, tanks, tank trucks, tank cars or other movable containers on United States Bonded Winery or United States Bonded Wine Cellar premises in the State of California; provided, however, that the placing of wine in moveable containers, including bottles, kegs, barrels, casks, tanks, tank trucks, tank cars or other movable containers, on United States Bonded Winery or United States Bonded Wine Cellar premises in the State of California for transfer or removal to other United States Bonded Winery or United States Bonded Wine Cellar premises in the State of California, solely for further or additional processing, provided such further or additional processing be only as defined in Article I, Section A, Subsection 10, Paragraph g, shall not constitute "preparation for market" for the purposes of this Marketing Order, as Amended; provided, further, that the placing of wine in movable containers including bottles, kegs, barrels, casks, tanks, tank trucks, tank cars or other movable containers on United States Bonded Winery or United States Bonded Wine Cellar premises in the State of California solely for transfer to vinegar processing generators operated on such bonded premises or other premises for the manufacture of vinegar in the State of California, or solely for transfer to a distillery in the State of California (when such distillery is not operated in connection with a bonded winery premise), for distillation into brandy, or high proof shall not constitute "preparation for market" for the purpose of this Marketing Order.

12. "Marketing Season" and "Fiscal Period" are synonymous and mean the period July 1 of any year to June 30 of the following year during which the processing of wine, as said term is defined in Subsection 9 herein, is carried out.

13. "Wine Advisory Board," "Advisory Board," and "Board" are synonymous and mean the administrative agency established pursuant to Article II of this Marketing Order, as Amended.

14. "Books and Records" means any books, records, invoices, bills of lading, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to matters relating to this Marketing Order, as Amended, or any processor as herein defined and directly affected by this Marketing Order, as Amended.

## A R T I C L E    I I

### WINE ADVISORY BOARD

#### Section A. ESTABLISHMENT, MEMBERSHIP AND TERM OF OFFICE.

1. An Advisory Board to be known as the Wine Advisory Board is hereby established and shall consist of twenty-five (25) members to assist the Director in the administration of said Marketing Order. Said Board shall be composed of twenty-five (25) processors, all of whom shall be appointed by the Director; provided, that there not be more than two (2) members representing any one firm, corporation, or cooperative.

2. There shall be an alternate member for each member of the Board; provided, that alternate members who represent the same firm, corporation, or cooperative which has two (2) members on the Board shall be alternate to those members.

3. In the event a firm, corporation, or cooperative has more than two (2) voting members, the Board shall at its next scheduled meeting recommend to the Director the reorganization of the Board and appointment of members consistent with the provisions of Paragraphs 1 and 2 of this Section.

4. Members and alternate members shall be appointed by the Director from nominations received for that purpose.

Section B. APPOINTMENT OF MEMBERS AND ALTERNATE MEMBERS OF THE ADVISORY BOARD. The Director shall appoint members and alternate members of the Board from nominations made at the public hearing to serve from the effective date of this Marketing Order, as Amended, through June 30, 1975, or until their successors have been appointed and have qualified.

1. The Director hereby appoints the following persons to serve as members and alternate members of the Wine Advisory Board for the period effective upon the effective date of this Marketing Order, as Amended, through June 30, 1975, or until their successors have been appointed and have qualified.

<u>MEMBER</u>	<u>ADDRESS</u>	<u>ALTERNATE</u>	<u>ADDRESS</u>
1. KERBY T. ANDERSON	SAN FRANCISCO	J. W. FLEMING	FRESNO
2. EDMUND ACCOMAZZO	CUCAMONGA	ARTHUR ACCOMAZZO	CUCAMONGA
3. FRED FRANZIA	RIPON	JOHN FRANZIA, JR.	RIPON
4. PHILO BIANE	GUASTI	MICHAEL BIANE	GUASTI
5. JOHN B. CELLA, II	SAN FRANCISCO	RICHARD OSTER	SAN FRANCISCO
6. JOSEPH S. CONCANNON, JR.	LIVERMORE	DAVID FICKLIN	MADERA
7. WILLIAM DIEPPE	SAN FRANCISCO	FRED WEIBEL, JR.	MISSION SAN JOSE
8. JOSEPH J. FRANZIA	RIPON	ALFRED PIRRONE	SALIDA
9. DAVID GALLO	MODESTO	HOWARD WILLIAMS	MODESTO
10. ROBERT GALLO	MODESTO	JAMES COLEMAN	MODESTO
11. ERNEST HAAS	LODI	DINO BARENGO	ACAMPO
12. VEITH HERRE	FRESNO	SEYMOUR GREENBERG	BRISBANE
13. ROBERT IVIE	SAN FRANCISCO	HUBERT METTLER	LODI
14. L. P. MARTINI	ST. HELENA	JOSEPH E. HEITZ	ST. HELENA
15. OTTO E. MEYER	SAN FRANCISCO	LEO PERTI	SARATOGA
16. EDMUND A. MIRASSOU	SAN JOSE	M. J. FILICE	SAN MARTIN
17. ROBERT MONDAVI	ST. HELENA	H. PETER JURGENS	SAN FRANCISCO
18. KEITH NYLANDER	DI GIORGIO	JAMES S. LAWRENCE	DI GIORGIO
19. EDWARD V. PRATI	SANTA ROSA	ELMO MARTINI	SANTA ROSA
20. JAKE RHEINGANS	MADERA	M. S. NURY	FRESNO
21. JAMES L. RIDDELL	FRESNO	M. PERELLI-MINETTI	BURLINGAME
22. ROBERT SETRAKIAN	SAN FRANCISCO	LEONARD LE BLANC	SANGER
23. B. C. SOLARI	SAN FRANCISCO	R. M. DOTY	SAN FRANCISCO
24. BROTHER TIMOTHY	NAPA	HERMAN ARCHINAL	REEDLEY
25. KARL L. WENTE	LIVERMORE	ADOLF HECK	GUERNEVILLE

Section C. QUALIFICATION. Any person selected by the Director as a member or alternate member of the Advisory Board shall qualify by filing a written acceptance and other required forms with the Director within such filing period as may be established by the Director.

Section D. ALTERNATE MEMBERS. An alternate member of the Advisory Board shall, in the absence of the member for whom he is alternate, sit in the place and stead of such member at any meetings of the Board and shall have all of the powers, duties, and privileges of the member while attending any such meetings. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act in his place and stead until a successor of such member is selected and has qualified.

Section E. VACANCIES.

1. The Director shall fill any vacancies occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the Wine Advisory Board, or its subcommittee. In making such selection the Director may take into consideration any nominations made by the remaining members of the Board.

2. Removal of Board Members. Any member of the Wine Advisory Board or any alternate member may be removed by the Director at any time. Any member, or alternate member requested to serve in the place and stead of a member, who fails to attend two (2) consecutive Board meetings and who fails to file with the Board a proper and sufficient reason for such failure to attend shall be disqualified from office, and the position declared vacant.

Section F. SIZE OF BOARD. Pursuant to Section 59051 of the Act the Board may recommend and the Director may approve an increase or decrease in the number of members and alternate members of the Wine Advisory Board.

Section G. ORGANIZATION.

1. Whenever four (4) or more vacancies exist in its membership, the Board shall at its next scheduled meeting recommend to the Director for his approval persons to fill such vacancies or may recommend a change in the size of the Board pursuant to Section F hereof.

2. Thirteen (13) members of the Wine Advisory Board shall constitute a quorum. Any recommendations of the Board to the Director shall require the affirmative vote of not less than thirteen (13) members or their respective alternates in attendance at a regularly called meeting of the Board and qualified to vote; provided, however, that whenever a recommendation of the Board to the Director, applicable to any of the provisions of Article III or IV hereof, is duly adopted upon the affirmative vote of less than two-thirds of the members or their respective alternates in attendance and qualified to vote, the members or their alternates voting against the adoption of such

recommendation shall have the privilege of submitting a minority report or minority reports to the Director setting forth their reasons for dissenting. The majority members or alternate members of the Board shall also have the privilege of submitting a majority report or majority reports setting forth their reasons for assenting. In any such instances the Director shall take into consideration all majority and minority reports and approve or disapprove of such recommendation pursuant to the authority and discretion conferred upon him by the Act.

Section H. DUTIES AND POWERS OF BOARD. The Board shall have the following duties and powers, which may be exercised subject to the approval of the Director:

- 1. To administer the provisions of this Marketing Order.
2. To recommend to the Director administrative rules and regulations relating to this Marketing Order.
3. To receive and report to the Director complaints of violations of this Marketing Order.
4. To recommend to the Director amendments to this Marketing Order.
5. To assist the Director in the assessment of members of the industry and in the collection of funds to cover the expenses incurred in carrying out the provisions of this Marketing Order and the administration thereof.
6. To assist the Director in the collection of such necessary information and data as may be deemed necessary to the proper administration of this Marketing Order and the Act.
7. To select a chairman from its members and to select such other officers and adopt such regulations for the conduct of its business as the Board may deem advisable.
8. To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Director, or his duly authorized representatives, and to provide to the Director copies of the minutes of all meetings duly certified by an authorized officer of the Board.
9. The Board is authorized to cooperate with and to coordinate its activities with any other legally constituted program for the marketing in any form of any agricultural commodity used in the production or processing of wine.

Section I. COMMITTEES.

1. In addition to the Advisory Board there may be established one or more special committees or subcommittees to assist the Advisory Board in carrying out its duties and functions.

2. Upon approval of the Director, the Advisory Board may establish committees or subcommittees to carry out assigned duties and functions and designate the members or alternate members of the Board to serve upon such committees. The Board may also establish special committees or subcommittees which include persons who are not members or alternate members of the Board to perform specific duties and functions; provided, that any Board members or alternate members shall be approved by the Director and any non-Board members or alternate members shall be appointed to such committees by the Director.

3. Any action of any committee, special committee, or subcommittee of the Board shall be subject to final approval by the Board. Members and alternate members of any committee, special committee or subcommittee whether by appointment or approval of the Director shall be entitled to reimbursement for actual expenses incurred while acting in their authorized capacities.

Section J. AUTHORIZATION TO ENGAGE EMPLOYEES. Subject to the approval of the Director, the Wine Advisory Board may employ necessary personnel, fix their compensation and terms of employment and incur such expenses to be paid by the Director from monies collected as herein provided, as are necessary and proper to enable said Advisory Board to perform its duties. A member of the Wine Advisory Board or of any subcommittee shall be entitled to his actual expenses incurred while engaged in the performance of his duties as authorized hereunder.

Section K. LIMITATION OF LIABILITY OF MEMBERS OF THE ADVISORY BOARD. The members of the Wine Advisory Board, or its subcommittees, duly appointed by the Director, including employees of such Board, shall not be held responsible individually in any way whatsoever to any processor, or any other person for errors in judgment, mistakes or other acts either of commission or omission as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the Board. The liability of the members of such Board, or its subcommittees, shall be several and not joint and no member shall be liable for the default of any other member.

### A R T I C L E    I I I

#### ADVERTISING AND SALES PROMOTION, RESEARCH, AND EDUCATIONAL PROGRAMS

Section A. ADVERTISING AND SALES PROMOTION. There shall be established plans for advertising and sales promotion to maintain present markets or to create new or larger markets for wine produced in the State of California. Such plans may consist, insofar as funds are available, and as the Board may recommend and the Director may approve, of programs

of advertising, dealer service, trade promotion, publicity, market development and expansion activities for the prevention, modification or elimination of trade barriers which restrict the free flow of wine produced in California to market, including the presentation of facts to and negotiations with State, Federal or foreign governmental agencies on matters which affect the marketing of wine produced in this State; also such other plans as may be recommended by the Board and approved by the Director pursuant to this Marketing Order, as Amended; provided, that any such plans shall be directed toward increasing the sale of such wine without reference to any particular private brand or trade name; and provided, further, that no advertising or sales promotion program shall be issued which shall make use of false or unwarranted claims in behalf of wine, or disparage the quality, value, sale or use of any other agricultural commodity.

**Section B. RESEARCH STUDIES.**

1. Distribution Research. With the approval of the Director, the Board may conduct or arrange for any necessary and proper research studies or investigations relating to the distribution or marketing of wine.

2. Production and Processing Research. With the approval of the Director, the Board may conduct or arrange for necessary and proper research studies in the production or processing of wine. Research and survey studies in production of wine may include the development or use of methods or procedures for estimating the production and utilization of agricultural commodities from which wine is produced. Research and survey studies in the processing of wine may include subjects tending to improve the quality and marketability of California wines; provided, such studies and surveys with respect to processing are limited to problems of stillage, winery waste disposal at wineries, winery or other pomace, or grape pomace, and with respect to quality and marketability of wine are limited to factors affecting the nature, type, or quality of wines produced.

**Section C. EDUCATIONAL PROGRAMS.** With the approval of the Director, the Board may conduct or arrange for any necessary and proper educational programs designed to acquaint producers of agricultural commodities used in wine or processors of wine or other interested persons with quality improvement, including sanitation practices, procedures or methods as applied to wine.

**Section D. ADMINISTRATION OF FUNDS.** The Advisory Board shall submit to the Director such plans for such advertising and sales promotions as are specified in Section A of this Article. The monies collected for advertising and sales promotion purposes under this Marketing Order, as Amended, shall be disbursed according to said plans, as submitted by said Board and approved by the Director.

**Section E. ADMINISTRATIVE POLICY ON FUNCTIONS PERFORMED BY CONTRACT OR AGREEMENT.** Subject to the approval of the Director, the Board may



enter into contracts and agreements with other persons or agencies in carrying out the functions authorized by this Marketing Order if the Board determines that such functions can be carried on economically, effectively, and satisfactorily by any such contractor. A statement of the principal considerations of the Board in reaching such a determination with respect to each such function shall be furnished to the Director in submitting each such contract or agreement to the Director for approval.

---

Any such agreement or contract entered into by and between the Board and any persons or agencies for the performance of the functions referred to therein shall provide that the Director and the Board shall have the right to review or audit the expenditures of such person or agency made pursuant to such contract or agreement.

---

The handling of each of the functions by any person or agency under contract or agreement with the Board shall be generally supervised and reviewed from time to time by the Board or by committees or subcommittees of the Board and periodic reports of the activities being performed and of any such reviews shall be made to the Board and to the Director, as provided in each such contract.

## A R T I C L E    I V

### BUDGETS AND ASSESSMENTS

Section A. ASSESSMENTS FOR ADVERTISING AND SALES PROMOTION, RESEARCH, AND FOR EXPENSES. For the purpose of providing funds to defray the necessary expenses incurred by the Director in the formulation, issuance, administration and enforcement of this Marketing Order, as Amended, and for the purpose of providing funds to cover the costs of any advertising and sales promotion plans, research studies and educational programs as provided for in Article III, Sections A, B, and C above, each processor shall pay to the Director, at such times and in such installments as the Director may prescribe, one and one-half cents (\$0.015) on each gallon of grape dessert wine prepared for market by such processor and one cent (\$0.01) on each gallon of grape table wine prepared for market by such processor, and one half of one cent (\$0.005) on each gallon of fruit or agricultural wine, whether dessert or table, prepared for market by such processor; provided, however, that no processor shall be required to pay an assessment on wine prepared for market upon which the applicable assessment has once been paid, if after such payment said wine was returned to said processor for reprocessing or reconditioning. To support a claim for such exemption by reason of a prior payment of the assessment, processors shall keep such records as the Director may require to support each claim of exemption; and provided, further, that prior to the beginning of any marketing season, the Board may recommend and the Director may approve any rates of assessment equal to or less than the rates established

hereinabove, if the Board and Director find that sufficient funds will be provided by such rates or that either or both of the rates established above exceed or are about to exceed the maximum percentage of gross dollar value of sales by all processors permitted under the Act. Any assessment rate established hereunder shall remain in effect until modified, terminated, or suspended. The Board shall recommend to the Director and the Director may approve the proportions of such assessments which may be expended to defray the costs of administrative activities of the Board and of the Director and to defray the costs of any advertising and sales promotion, public relations, research studies, and educational programs recommended by the Board and approved by the Director; provided, however, that the proportion of such assessments which may be allocated or expended in such manner to defray the costs of such administrative activities for this Marketing Order, as Amended, shall in no case exceed the maximum amount authorized in Section 58924 of the Act.

Section B. BUDGETS. At the beginning of each fiscal period hereunder and as may be necessary thereafter, the Wine Advisory Board shall submit to the Director for his approval a budget or budgets covering funds estimated to be necessary for the administration and enforcement of this Marketing Order, including expenditures for advertising and sales promotion, public relations, research, and education. Following approval of such budgets by the Director, said Board and its subcommittees may incur expenses in accordance with and within the limitations of such budgets.

Section C. DEPOSITS, DISBURSEMENTS, AND REFUNDS.

1. Deposits and Disbursements. Any monies collected by the Director pursuant to the provisions of this Marketing Order shall be deposited in a bank or banks, or other depository, approved by the Director of General Services and allocated to this Marketing Order for Wine, as Amended, and disbursed by the Director only for the necessary expenses incurred by the Advisory Board and the Director and approved by the Director with respect to this Marketing Order for Wine, as Amended. Funds so collected shall be deposited and disbursed in conformity with appropriate rules and regulations prescribed by the Director. The expenditure of such funds shall be exempt from the provisions of Section 925.6 of the Government Code.

2. Refunds. Any monies remaining in such fund allocable to this Marketing Order for Wine, as Amended, in the discretion of the Director, may be refunded at the close of any marketing season or seasons, upon a pro rata basis, to all persons from whom such funds were collected; provided, that upon termination by the Director of this Marketing Order, as Amended, or any subsequent Marketing Order for Wine which may supersede it, any and all monies remaining and not required by the Director to defray the expenses of the Marketing Order shall be returned by the Director to all persons from whom such funds were collected, upon a pro rata basis in accordance with the assessments paid by such persons during the term of the Marketing Order; provided, that if the Director finds that the amounts so returnable are so small as to make impractical the computation and

remittance of such pro rata refund to such processors, the Director may use such funds to defray the expenses incurred by him in the formulation, issuance, administration, or enforcement of any subsequent Marketing Order for Wine.

Section D. COLLECTION OF ASSESSMENTS. Any assessment herein levied, in such specified amount as may be determined by the Director, pursuant to the provisions of this Marketing Order, as Amended, and of the Act shall constitute a personal debt of every person so assessed and shall be due and payable to the Director when payment is called for by the Director. In the event of failure of such person or persons to pay any such assessment upon the date determined by the Director, the Director may file a complaint against such person or persons in a State court of competent jurisdiction for all the collection thereof as provided in Sections 58929, 58930, and Article 21 of the Act.

## A R T I C L E V

### BOOKS AND RECORDS

Section A. BOOKS AND RECORDS. Any and all processors subject to the provisions of this Marketing Order, as Amended, shall maintain books and records reflecting their operations under this Marketing Order, as Amended, and shall furnish to the Director or his duly authorized or designated representative, such information as may be, from time to time, requested by them relating to operations under this Marketing Order, as Amended, and shall permit the inspection by the Director, or his duly authorized or designated representatives, of such portions of such books and records as relate to operations under said Marketing Order, as Amended.

Section B. REPORTS TO DIRECTOR. Annually within ninety (90) days after the close of each marketing season hereunder the Board shall prepare and submit to the Director a report showing its operations for the preceding marketing season hereunder.

Section C. CONFIDENTIAL INFORMATION. Any information obtained by any person pursuant to the provisions of this Article shall be confidential and shall not be by him disclosed to any other person save to a person with like right to obtain the same or any attorney employed by the Director or the Advisory Board to give legal advice thereupon or by court order.

Section D. IMMUNITY. No person shall be excused from attending and testifying or from producing documentary evidence before the Director in obedience to the subpoena of the Director on the ground or for the reason that the testimony or evidence, documentary or otherwise, required by him may tend to incriminate him or subject him to a penalty

or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the Director in obedience to a subpoena issued by him.

## A R T I C L E    V I

### APPEALS

Section A. APPEALS. Any processor may petition the Director to review any order or decision of the Advisory Board or any of its subcommittees. Any such petition must be filed in writing setting forth the facts upon which it is based.

Section B. EFFECT OF APPEAL. Pending the disposition of any appeal set forth in Section A of this Article, the parties shall abide by the order or decision of said Advisory Board, unless the Director shall rule otherwise. The Director shall, if the facts stated show reasonable grounds, grant any such petition and may review or revise in any manner whatsoever any order or decision upon which an appeal is taken.

## A R T I C L E    V I I

---

### AGENTS

Section A. AGENTS. The Director may, by designation in writing, name any person or persons, not excluding officers or employees of the California Department of Agriculture, to act as his agent or agents, with respect to any provision of this Marketing Order, as Amended.

---

## A R T I C L E    V I I I

### RELATION TO OTHER LEGISLATION

Section A. ANTI-TRUST LAWS. In any civil or criminal action or proceeding for violation of the Cartwright Act, the Unfair Practices

Act, the Fair Trade Act (Sections 16700 et seq of the Business and Professions Code), or any rule of statutory or common law against monopolies or combinations in restraint of trade, proof that the act complained of was done in compliance with the provisions of this Marketing Order and in furtherance of the purposes and provisions of the Act shall be a complete defense to such action or proceeding.

## ARTICLE IX

### SEPARABILITY

Section A. SEPARABILITY. If any section, sentence, clause, or part of this Marketing Order, as Amended, is for any reason held to be invalid or unconstitutional, or the applicability thereof to any person, circumstance, or thing is held to be invalid or unconstitutional, such decision shall not affect the remaining portions of this Marketing Order, as Amended. The Director and the signatories to the assents to this Marketing Order, as Amended, hereby declare that he would have issued this Marketing Order, as Amended, and each sentence, section, clause, or part thereof, and each of the signatories to the assents would have assented to each sentence, section, clause, or part thereof, despite the fact that one or more sections, sentences, clauses, or parts thereof be declared invalid or unconstitutional.

## ARTICLE X

### EFFECTIVE TIME AND TERMINATION

Section A. EFFECTIVE TIME. This Marketing Order, as Amended, shall become effective on the date specified by the Director and shall continue in effect until June 30, 1975, unless sooner suspended or terminated by the Director in accordance with the provisions of Section B of this Article X or by operation of law in accordance with the provisions of the Act.

Section B. TERMINATION. Pursuant to the provisions of Section 59081 of the Agricultural Code, the Director shall suspend or terminate this Order, or any provisions thereof, whenever he finds, after a public hearing duly noticed and held in accordance with the provisions of Article 6 of Chapter 1, Division 21 of said Agricultural Code, that this Order, or any provisions thereof, is contrary to or does not tend to effectuate the declared purposes or provisions of the Act within the standards and subject to the limitations and restrictions therein imposed; provided, that such

suspension or termination shall not become effective until expiration of the then current marketing season. The Director shall also suspend the provisions or terminate this Order in accordance with the provisions of Sections 59082, 59084 or 59085 of the Act.

Section C. EFFECT OF TERMINATION, SUSPENSION, OR AMENDMENT. Unless otherwise expressly provided in the notice of amendment, suspension, or termination, no amendment, suspension, or termination of the Marketing Order for Wine issued by the Director effective October 24, 1938, or as subsequently amended, shall either (a) affect, waive, or terminate any right, duty, obligation, or liability which shall have arisen or may thereafter arise in connection with any other provisions of said Marketing Order, not so amended, suspended, or terminated; (b) release, condone, or dismiss any violation of said Marketing Order, occurring prior to the effective time of such amendment, suspension, or termination; (c) affect or impair any rights or remedies of the Director or of any person with respect to any such violation; or (d) affect any liabilities pursuant to the provisions of this Marketing Order, as Amended.

\* \* \* \* \*

WHEREAS, it is provided in Sections 58711 and 58712 of the Act as follows:

"The director shall administer and enforce this chapter and may exercise any or all of the administrative powers which are conferred by Sections 11180 to 11191, inclusive, of the Government Code upon the head of a department of the state.

"In order to effectuate the declared purposes of this chapter, the director may issue, administer, and enforce the provisions of any marketing order issued pursuant to this chapter which regulates producer marketing or the handling of any commodity within this state," and

WHEREAS, the Director of Agriculture upon application of the Wine Advisory Board and pursuant to the provisions of the California Marketing Act of 1937, being Chapter 1 of Part 2, Division 21 of the Agricultural Code, gave notice of a public hearing to be held in Room 1200, State Building, 455 Golden Gate Avenue, San Francisco, California, on Thursday, July 13, 1972, at 10 a.m., upon Proposed Amendments to the Marketing Order for Wine, as Amended, and

WHEREAS, the Director of Agriculture did upon said date and at said place through his duly authorized agent, Harry J. Krade, Assistant Director, California Department of Agriculture, conduct a public hearing upon said proposed amendments to the Marketing Order for Wine, as Amended, and

WHEREAS, the Director of Agriculture, acting through his duly authorized agent, W. Les Portello, Senior Agricultural Economist, Bureau of Marketing, California Department of Agriculture, has found with respect to the provisions of said Marketing Order for Wine, as Amended:

(1) That the proposed amendments to the Marketing Order, as Amended, are reasonably calculated to attain the objectives sought in such Marketing Order;

(2) That such proposed amendments to the Marketing Order, as Amended, are in conformity with the provisions of the Marketing Act and within the applicable limitations and restrictions set forth therein and will tend to effectuate the declared purposes and policies of said Act;

(3) That the interests of consumers of California wine are protected in that the powers of said Act are being exercised only to the extent necessary to attain such objectives, and

WHEREAS, in making such findings the Director of Agriculture has taken into consideration the requirements of Section 58813 of said Act, and

WHEREAS, said Marketing Order, as Amended, embraces all persons who are engaged in the specific and distinct agricultural industry within the State and regulated by said Marketing Order, as Amended;

NOW, THEREFORE, I, C. B. Christensen, Director of Agriculture of the State of California, do hereby execute and issue this Marketing Order for Wine, as Amended, for the written assent of processors of wine on August 8, 1972.

IN WITNESS WHEREOF, I have hereunto affixed my signature in the City of Sacramento, California, this 8th day of August, 1972.

C. B. Christensen  
Director of Agriculture

By *Emil M. Loe*

Emil M. Loe  
Senior Agricultural Economist  
Bureau of Marketing



ORDER AND FINDINGS OF THE DIRECTOR OF AGRICULTURE  
MAKING EFFECTIVE THE MARKETING ORDER FOR WINE, AS AMENDED

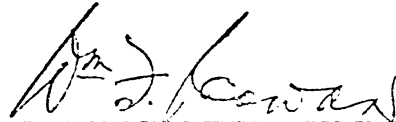
WHEREAS, the Director of Agriculture of the State of California, acting pursuant to and by virtue of the authority vested in him by the provisions of the California Marketing Act, being Chapter 1 of Part 2, Division 21 of the Agricultural Code, issued on August 8, 1972, the "Marketing Order for Wine, as Amended," which Marketing Order was thereby submitted to wine processors for their assent in accordance with said Act, and

WHEREAS, Section 58991 of said Act provides that approval of a marketing order requires the assent of wine processors who handle not less than sixty-five percent (65%) of the volume of wine, or by not less than sixty-five percent (65%) of the number of wine processors engaged in the marketing of wine, and

WHEREAS, the Director of Agriculture of the State of California hereby finds that said Marketing Order for Wine, as Amended, has been assented to in writing by wine processors of record with the Department who prepared for market or marketed more than sixty-five percent (65%) of the total volume of all wine prepared for market or marketed during the last completed marketing season;

NOW, THEREFORE, I, C. B. Christensen, Director of Agriculture of the State of California, acting pursuant to and by virtue of the authority vested in me by said Act, do hereby approve and make effective as of 12:01 a.m., Pacific Daylight Saving Time, Sunday, October 1, 1972, said Marketing Order for Wine, as Amended.

IN WITNESS WHEREOF, I have hereunto affixed my signature in the City of Sacramento, California, this 25<sup>th</sup> day of September, 1972.



ACTING DIRECTOR

C. B. Christensen  
Director of Agriculture

## A G R E E M E N T

THIS AGREEMENT, Made and entered into as of the 1st day of July, 1972 at the City and County of San Francisco, State of California, by and between

WINE ADVISORY BOARD, 717 Market Street, San Francisco, California hereinafter referred to as the "Board," a duly qualified advisory board appointed by the Director of Agriculture of the State of California, hereinafter referred to as the "Director," pursuant to a marketing order known as "Marketing Order for Wine, as Amended," effective May 1, 1972, properly issued pursuant to the provisions of the California Marketing Act of 1937, and

WINE INSTITUTE, 717 Market Street, San Francisco, California a non-profit trade association, hereinafter referred to as "Contractor."

### W I T N E S S E T H

Contractor agrees to perform functions for and furnish information to the Board as follows:

TO WAB  
AS OF 7/1/73

- (a) RESEARCH. Statistical, historical, sanitation, technical, and general research necessary to enable the Board and the Director to efficiently and properly administer the program under the above-mentioned Marketing Order for Wine, as Amended, conducted by the Board.
- (b) SURVEYS. Conduct continuous surveys to ascertain wine marketing conditions, consumption trends and practices, problems and obstacles to the marketing of California wine in the various markets in which California wines are or may be marketed, and such other market information as may be necessary or required.

Contractor shall make surveys and examinations of the various Federal and State laws and regulations and of the practical interpretations and applications thereof, governing the sale, distribution, sales promotion, and advertising of California wines in the various States, Territories and political subdivisions thereof; and of the Federal laws, rules, and regulations concerning the exportation and importation of wine.

Contractor shall carry on activities by such means as may be necessary and proper for the prevention, modification or removal of any trade barrier disclosed by the above investigations.

COULD BE DONE  
BY WAB

- (c) PUBLIC RELATIONS. Undertake the preparation, dissemination and placement, when practical and appropriate, for and on behalf of, and in the name of the Board of publicity and information relating to the advertising and sales promotion program and other programs carried on by the Board concerning the California wine industry and California wines in all suitable media and fields of publicity.

- (d) SANITATION. Provide a trained sanitarian to survey wineries for the purpose of making recommendations to the industry on methods of assuring high quality raw materials and the processing of high quality wines and to assist winery management in the dissemination to employees of information concerning in-plant sanitation. Where possible similar surveys concerning safety of winery personnel will also be conducted.
- (e) ADMINISTRATION. Provide executive direction and supervision for all activities as indicated and where required.

Contractor in performing its functions hereunder shall utilize trained employees and representatives as may be necessary to reasonably perform its functions, and in general shall utilize the most efficient and effective means of providing the aforementioned services.

Contractor shall make appearances, when necessary, before the various Federal and State departments, boards, commissions, authorities, administrators and other official bodies and individual officials thereof in order to carry out the program of the Board under the above-mentioned Marketing Order for Wine.

Contractor agrees that it will commence said program of research, marketing surveys, publicity, education and other activities described herein upon the execution of this Agreement or as soon thereafter as possible and will complete the same not later than June 30, 1973, unless this contract be sooner terminated pursuant to the provisions hereof.

Contractor shall serve as consultant to the Board and its management for the purpose of coordinating its operations pursuant to this Agreement when requested by the Board or the Board management.

In consideration of the foregoing Agreement upon the part of the Contractor the Board agrees to approve for payment to the Contractor upon submission of bills and other appropriate records showing cost used as a basis therefor and a showing of satisfactory performance to the Board and to the Director the sum of two-million, five hundred ninety-six thousand, four hundred twenty-three and 45/100 dollars (\$2,596,423.45) as full payment for the functions and information described herein for the period commencing the first day of July, 1972 to and including the 30th day of June, 1973 said sum to be paid in twelve (12) equal monthly installments commencing on the 15th day of August, 1972 and on the 15th day of each and every month thereafter to and including the 15th day of June, 1973. The final payment hereunder shall be made on the 15th day of July, 1973 and shall be in the amount determined by the Contractor and the Board to fully compensate Contractor for all functions performed and information furnished hereunder.

---

Contractor agrees to permit the Board, the Director, or their properly designated agent to review its actual total expenditure records and audit monthly bills rendered hereunder.

---

The Board represents and agrees that heretofore it has requested of the Director permission to incur the afore-mentioned expense in connection with the activities Contractor agrees herein to perform and conduct, and for the expense thereof to be paid by said Director from monies collected under and by virtue of said Marketing Order above-mentioned; and the Director has heretofore and subsequent to said requests authorized and approved the same.

Contractor agrees that neither the Board nor Director nor the State of California shall be held liable for payment of any monies arising from the terms of this Agreement unless or until such monies are available for such purpose from assessments provided for in the Marketing Order for Wine, as Amended, effective May 1, 1972, and in effect as of the date hereof.

Contractor agrees to indemnify and save harmless the Board, its officers, agents and employees, and the Director and the State of California and its officers, agents and employees, from any and all claims and losses accruing or resulting to persons engaged in the work contemplated or materials to be furnished under this Agreement or to third parties who may be injured or damaged by the Contractor or its agents or employees in the performance of this Agreement. Contractor agrees to provide necessary Workmen's Compensation Insurance.

The parties hereto agree that the Contractor and any agent or employee of the Contractor in the performance of this Agreement shall act in an independent capacity and not as officers or employees or agents of said Board, the Director, or the State of California, or any Department, Bureau, Commission, Officer or employee thereof.

The Board may terminate this Agreement and be relieved of the payment of any consideration to the Contractor should the Contractor fail to perform the agreements herein contained at the time and in the manner herein provided. In the event of such termination, the Board may proceed with the work in any manner deemed proper by the Board, and the Contractor shall be paid any amounts due or owing in accordance with this Agreement at the time of said termination.

This Agreement is not assignable by the Contractor either in whole or in part.

This Agreement may be terminated by either party hereto upon written notice given not less than thirty (30) days prior to the date of such termination, or the provisions of this Agreement may be altered, changed, or amended by mutual consent of the parties hereto upon authorization and approval of the Director first had and obtained.

Time is of the essence of each and all of the provisions of this Agreement.

The attached Fair Employment Practices Addendum is hereby made a part of this agreement.

IN WITNESS WHEREOF, this Agreement has been executed in quadruplicate the day and year first above written.

APPROVED:

C. B. CHRISTENSEN, DIRECTOR OF AGRICULTURE

By [Signature]

Date 7-17-72

WINE ADVISORY BOARD

By [Signature]

Chairman

By [Signature]

Manager

WINE INSTITUTE

By [Signature]

President

1. In the performance of this contract, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State setting forth the provisions of this Fair Employment Practices section.

2. The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices Commission, or any other agency of the State of California designated by the awarding authority, for the purposes of investigation to ascertain compliance with the Fair Employment Practices section of this contract.

3. Remedies for Willful Violation:

- (a) The State may determine a willful violation of the Fair Employment Practices provision to have occurred upon receipt of a final judgment having that effect from a court in an action to which Contractor was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order, under Labor Code Section 1426, which has become final, or obtained an injunction under Labor Code Section 1429.
- (b) For willful violation of this Fair Employment Practices provision, the State shall have the right to terminate this contract either in whole or in part, and any loss or damage sustained by the State in securing the goods or services hereunder shall be borne and paid for by the Contractor and by his surety under the performance bond, if any, and the State may deduct from any moneys due or that thereafter may become due to the Contractor, the difference between the price named in the contract and the actual cost thereof to the State.

TENTATIVE PLAN OF OPERATION NO. XL

RESEARCH, MARKETING SURVEY, PUBLICITY, EDUCATION, SANITATION  
AND OTHER SERVICES REQUIRED BY WINE ADVISORY BOARD  
TO BE PERFORMED BY WINE INSTITUTE

JULY 1, 1972

PERIOD JULY 1972 THROUGH JUNE 1973

TENTATIVE PLAN OF OPERATION NO. XL

The following Tentative Plan of Operation outlines the manner in which the Wine Institute plans to perform, during the period July 1, 1972, to June 30, 1973 inclusive, the various services heretofore requested by the Wine Advisory Board to be performed during the time specified, under the Agreement executed as of July 1, 1972.

This Plan is prepared in accordance with the Board's recommendations and is submitted to the Board for consideration and approval.

ACCEPTED BY WINE ADVISORY BOARD

By) *C. Christensen* Chairman  
By) *P. C. Lurmont* Manager

Submitted by:

WINE INSTITUTE

By *W. H. Davis*  
President

APPROVED:

C. B. CHRISTENSEN, DIRECTOR OF AGRICULTURE

*Walter J. Englund*

Date 7-17-72

## A. RESEARCH

### 1. Statistical and Economic Research

Data requested by the Board and to be obtained and compiled during the period of this Tentative Plan of Operation shall include:

- (a) Commercial grape crush in California during the current vintage season, by counties and by viticultural regions, and similar data on the utilization in wine production by California wineries of fruits other than grapes.
- (b) Wine production in California during the current vintage season, by counties and by viticultural regions, by class (table wines, dessert wines, carbonated wines, sparkling wines and Champagne) and by tax class.
- (c) For purposes of analysis and comparison, commercial grape crush during the current vintage in states\* other than California, and similar data as to fruits other than grapes thus utilized, by states.
- (d) Storage cooperage capacity of wineries in California, and extent of vineyard operations by wineries in California during the most current calendar year for which data are available.
- (e) Inventories of all wine stored in bonded premises in California and in other states.
- (f) Number of United States bonded wine cellars in operation, by states.
- (g) Data as to comparative sales of California wines and wines of other states and other countries, in the various markets of the United States, during the current fiscal year.
- (h) Data as to apparent consumption of all wines, by classes and by months and by states, in the United States during the current and preceding fiscal year; per capita consumption of all wines in the various states of the United States and in the principal wine consuming nations other than the United States, during the current calendar year; percentage of change in wine consumption by gallonage of all wine consuming states for the current and preceding calendar year.
- (i) Data as to the quantity and relative proportions of California wine moving by rail in tank and package cars to out-of-state destinations.
- (j) Data as to collections of State and Federal excise taxes of wines in the United States, by months and by states during the current calendar year.
- (k) Production and utilization of the principal byproducts of grapes and wines during the current calendar year.

\*Includes District of Columbia.



market demand data for California, other states, and foreign countries supplying the United States wine market, for the purpose of developing a continuing forecast of the probable gallonage movement of California wines from California bonded premises into consumption channels during the last three fiscal years; such analysis to be suitable as a basis for the computation of revenues from Wine Marketing Order assessments to be anticipated by the Wine Advisory Board from such gallonage movement, these forecasts being required by the Board as an essential part of its budgeting operation.

(m) Study and analysis of economic data relating to the grape and wine industry, initiation of economic studies as required, or as requested by the Board, and maintenance of regular communication with various agencies of government such as the Giannini Foundation of Agricultural Economics of the University of California were continued.

(n) Research studies to obtain preliminary and audited information as to movement and tax payment data of all wines, by classes and by months and by states, in the United States.

(o) Monthly figures as to shipments of wine, segregating the figures for shipment of California wine into all markets, shipment of California wine into all markets except California, shipment of California wine in California, shipment of all other wines into California, and containing breakdowns among table wines, dessert wines and sparkling wines, and containing percentage changes.

(p) Studies of acreage in California planted to grapes, with information as to recent plantings and removals by varieties and by production areas, and total acreage in bearing and non-bearing categories.

## 2. Historical Research

Research into the historical background of grape growing, wine production, and wine use desired by the Board to provide valuable material for use in the advertising and sales promotion program.

## 3. Technical Research

As requested by the Board, research will be continued during the period of this Tentative Plan of Operation into methods of grape growing and wine production, of recovering by products of grapes and wines and the conditions involved in the production of grapes and winery products or other conditions which might affect the environment. The Contractor is to render reports of the work of its Technical Advisory and Vinicultural Research Committees which are engaged in efforts to improve the quality of California wines and which will perform portions of this research.

Research into the level of rates for transportation of wine and winery products, and representation where necessary and appropriate to rate making organizations.

Study of various types of insurance and applicable rates as applied to California wineries.

The Contractor is to engage a sanitarian to assist California wineries in meeting the quality requirements of Food & Drug agencies and to survey wineries for the purpose of making recommendations to the industry on methods of assuring high quality raw materials and processing of high quality wines. Recommendations on measures contributing to the safety of winery personnel may also be furnished.

5. General Research

As requested by the Board, the Contractor is to continue research into the following subjects:

- (a) Analysis of data concerning the misuse of wine.
- (b) Development of data concerning the formulation or improvement of wine quality standards.
- (c) Answers to inquiries on such subjects as care of old wines, meanings of wine labels, how to stock a wine cellar, religious uses of wine, wine toasts and quotations, wine glassware, pronouncing dictionary of principal grape varieties and wine types, formal wine service, wine punch recipes, hot spiced wine recipes, and other types of information required of the Board by wine retailers and consumers from time to time.

## B. MARKETING SURVEYS

### 1. Wine Distribution

Surveys of wine distribution requested by the Board and planned by the Contractor during the period of this Tentative Plan of Operation include:

- (a) Relative extent to which wines are offered to the public by licensed private outlets or by state or government monopoly outlets, and from non-commercial sources, and factors responsible therefor, during the current fiscal year.
- (b) Wine excise tax rates, by states; also methods of wine tax computation and payment, effective during the current fiscal year.
- (c) Wine exports and inventories of the principal wine producing nations other than the United States, and developments encouraging or retarding movement of foreign wines into United States markets, which information is necessary in order that the Board may be informed of the extent of competition likely to be offered by foreign wines during the current fiscal year.

### 2. Laws and Regulations Affecting California Wine Marketing and Affecting Distribution and Sales of California Wines

Surveys requested by the Board and to be performed during this period include:

- (a) Summaries of the laws, regulations, and practical interpretations thereof in effect, governing the distribution, sale and consumption of wines, requested by the Board to keep itself and the industry informed of the constantly occurring changes in laws and regulations.
- (b) Survey of laws and regulations in effect governing the advertising and sales promotion of California wines, and revision of the summary of such laws and regulations previously furnished to the Board by the Contractor.
- (c) Survey of current discriminatory interstate trade barriers and other obstacles to the distribution of California wines.
- (d) Additional market surveys of trade barriers to the marketing of California wines, as may be required by the Board to determine whether activities shall be undertaken under Paragraph 4 hereof for the prevention, modification or removal of same.

### 3. Survey of Marketing Opportunities

- (a) Continued limited survey of the export market opportunities of California wines.

to devising methods of publicity and education that can be used among home economists to increase the use of wine in cooking.

(c) Continued survey of opportunities to broaden the licensed distribution of California wines by increasing the number of outlets therefor.

#### 4. Activities for the Prevention, Modification or Removal of Trade Barriers

The Contractor will carry on activities, by such means as may be necessary and proper, and to such extent as facilities may permit, for the prevention, modification or removal of trade barriers to the marketing of California wines disclosed by the various marketing surveys provided for in this Tentative Plan of Operation.

Contractor's activities in this area will encompass international trade barriers to the marketing of California wines and to import policies of the U.S. Contractor will conduct research studies of international barriers to trade and their effect on the economics of the California wine industry, for use in contacts with governmental officials and negotiations for foreign trade concessions favorable to California wines.

## C. PUBLICITY

### 1. Publicity Concerning the California Wine Industry and California Wines

The program requested by the Board to be carried on to publicize the California wine industry and California wines will include during the period of this Tentative Plan of Operation:

Preparation and dissemination and placement, when practical and appropriate on behalf of the Wine Advisory Board, of information and photographs of California grape growing and wine production, uses and enjoyment of wine, California wine quality and prestige, etc., for publication and other means of public dissemination, in suitable media and fields of publicity.

Such information and photographs will portray the extent of the industry, methods of production and trends, wine types and uses, wine byproducts and other information related to the advertising and sales promotion program carried on by the Board.

Releases and photographs will be prepared and distributed to publicity media.

Data will be compiled and furnished by the Contractor in behalf of the Board to fill the numerous requests for data for publication and other means of public dissemination regularly received by the Board and by the Contractor from publishers, writers and others.

Articles, radio scripts, TV scripts and films, public addresses and other material will be prepared and illustrations furnished for individual publications.

Special activities of an educational nature with favorable opportunities for California wines will be undertaken by Contractor as indicated and/or to the extent possible under this contract and/or as requested by the Board.

A comparative tasting program will be conducted whereby California wines and counterpart foreign wines will be served "blind" to young adult audiences including college and university students of legal age where such tastings are permissible. This program will have as a further objective the publicizing of results through media as a part of the basic public relations plan of operation.

The Contractor will furnish guidance and information to allied industries for use in cooperative publicity, advertising and promotion of other commodities jointly with California wines. The Contractor will also develop plans for individual and group wine tours through California vineyards and further will develop methods of publicizing the tourist attractions of California wine growing districts. To this end, the booklet, "California Wine Wonderland" containing information on the state's vineyard districts and showing the locations of all wineries opened to visitors will be prepared, issued, and kept up to date.

2. Wine Recipe Publicity

The Contractor will prepare for dissemination, and cause to be prepared and disseminated, through normal publicity media, recipes, publicity releases and photographs of the uses of wine in cooking and other preparations of foods, and of serving and storing wines in the home.

3. Medical Publicity

The Contractor will publicize the results of the industry's Medical Research Program to acquaint the medical profession and the public with the health values of wine.

4. Fairs, Exhibitions and Publicity Through Public and Trade Organizations

As heretofore requested by the Board, employees of the Contractor will make necessary personal appearances before public and trade groups and meetings, and at fairs and exhibitions, to give talks and otherwise provide information related to the Board's program in behalf of the California wine industry and California wines.

The Contractor will direct, supervise and coordinate these and other industry public relations programs and activities in accordance with this plan of action and requirements of the Board, including those of any firm employed by Wine Institute as necessary to fulfill its contract with the Board.